

AO 91 (Rev. 08/09) Criminal Complaint

United States District Court
Southern District Of Texas
FILED

UNITED STATES DISTRICT COURT

NOV 29 2019

for the

Southern District of Texas

David J. Bradley, Clerk

United States of America

v.

Benny Guadalupe GARCIA YOB: 1986 U.S. Citizen
Rodolfo RODRIGUEZ Jr. YOB: 1994 U.S. Citizen

Case No.

M-19-2921-M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 26, 2019 in the county of Hidalgo in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 USC § 922(g)(1)

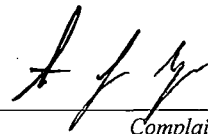
18 USC § 922(g)(1) - It shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year; to ship or transport in interstate or foreign commerce, or possess in or affecting

18 USC § 2

commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

This criminal complaint is based on these facts:

(See ATTACHMENT A as a continuation)

☒ Continued on the attached sheet.Reviewed: M. Zilko, AUSA
11/29/19

Complainant's signature

Stephen J. Zilko - ATF Special Agent

Printed name and title


Sworn to before me and signed in my presence.

Date:

11/29/19 @ 2:45 PM

City and state:

McAllen, Texas



Judge's signature

J. Scott Hacker, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

On November 26, 2019, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) received information from the Edinburg, Texas Police Department (EPD) related to the arrest of Rodolfo RODRIGUEZ (hereinafter referred to as RODRIGUEZ) and Benny Guadalupe GARCIA (hereinafter referred to as GARCIA).

Your affiant was advised by EPD Officers of the following:

1. An EPD Officer conducted a traffic stop on a vehicle driven by GARCIA, and occupied by RODRIGUEZ in the front passenger seat, for a traffic violation on or about November 26, 2019.
2. There were no additional passengers inside of the vehicle.
3. During the traffic stop, EPD officers received consent from GARCIA to search the vehicle.
4. The search revealed the discovery of a Kimber, Model: 1911, .45 caliber pistol with an obliterated serial number in the center console of the vehicle.
5. EPD discovered one magazine containing one (1) round of ammunition in close proximity to both the firearm and GARCIA and RODRIGUEZ inside the vehicle.
6. As a result of the traffic stop, GARCIA and RODRIGUEZ were arrested by EPD.
7. EPD investigators read GARCIA and RODRIGUEZ their Miranda rights, which both freely and voluntarily waived and provided statements.
8. During post-Miranda interviews, GARCIA and RODRIGUEZ both admitted to being in possession of the aforementioned firearm.

On November 8, 2007, GARCIA was convicted of a felony in the 139th Judicial District Court of Hidalgo County, Texas for Burglary of a Habitation in cause number CR-1256-04-E.

On May 17, 2012, RODRIGUEZ was convicted of a felony in the 139th Judicial District Court of Hidalgo County, Texas for Burglary of Vehicles in cause number CR-1551-12-C.

On November 27, 2019, an ATF Interstate Nexus Expert examined the aforementioned firearm and ammunition seized as part of this investigation. The ATF Interstate Nexus Expert concluded that the firearm and ammunition did, in fact, travel in and affect interstate or foreign commerce.